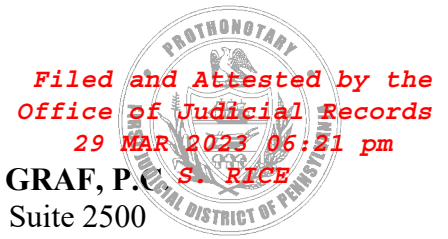


Shanon J. Carson
Y. Michael Twersky
Dena Young
BERGER MONTAGUE PC
1818 Market Street, Suite 3600
Philadelphia, PA 19103

Joseph C. Kohn
William E. Hoese
Zahra R. Dean
KOHN, SWIFT & GRAF, P.C.
1600 Market Street, Suite 2500
Philadelphia, PA 19103



Daniel C. Levin
Charles E. Schaffer
Nicholas J. Elia
LEVIN SEDRAN & BERMAN LLP
510 Walnut Street, Suite 500
Philadelphia, PA 19106

Counsel for Plaintiffs and the Proposed Class

TIMOTHY MCGRAW
c/o Berger Montague PC
1818 Market Street, Suite 3600
Philadelphia, PA 19103

EMILY COHEN
c/o Berger Montague PC
1818 Market Street, Suite 3600
Philadelphia, PA 19103; and

DANIELLE BYRD
c/o Berger Montague PC
1818 Market Street, Suite 3600
Philadelphia, PA 19103

Plaintiffs,

v.

ALTUGLAS LLC
100 PA-413, Bristol, PA 19007; and

TRINSEO LLC a/k/a TRINSEO PLC
440 Swedesford Rd., Suite 301
Wayne, PA 19087

Defendants.

**IN THE COURT OF COMMON PLEAS
OF PHILADELPHIA COUNTY**

Case No.:

CLASS ACTION COMPLAINT

JURY TRIAL DEMANDED

PLAINTIFFS' COMPLAINT

NOTICE

You have been sued in court. If you wish to defend against the claims set forth in the following pages, you must take action within twenty (20) days after this complaint and notice are served, by entering a written appearance personally or by attorney and filing in writing with the court your defenses or objections to the claims set forth against you. You are warned that if you fail to do so the case may proceed without you and a judgment may be entered against you by the court complaint or for any other claim or relief requested by the plaintiff. You may lose money or property or other rights important to you.

YOU SHOULD TAKE THIS PAPER TO YOUR LAWYER OR CANNOT AFFORD ONE, GO TO OR TELEPHONE THE OFFICE SET FORTH BELOW TO FIND OUT WHERE YOU CAN GET LEGAL HELP

Lawyer Reference Service
Philadelphia Bar Association
1101 Market Street, 11th Floor
Philadelphia, PA 19107
(215) 238-6300

AVISO

Le han demandado a usted en la corte. Si usted quiere defenderse de estas demandas expuestas en las paginas siguientes, usted tiene veinte (20) dias de plazo al partir de la fecha de la demanda y la notificacion. Hace falta asentar una comparencia escrita o en persona o con un abogado y entregar a la corte en forma escrita sus defensas o sus objeciones a las demandas en contra de su persona. Sea avisado que si usted no se defiende, la corte tomara medidas y puede continuar la demanda en contra suya sin previo aviso o nofficacion. Ademias, la corte puede decidir a favor del demandante y requiere que usted cumpla con todas las provisiones de esta demanda. Usted puede perder dinero o sus propiedades y otros derechos importantes para usted.

LLEVE ESTA DEMANDA A UN ABOGADO IMMEDIATAMENTE. SI NO TIENE ABOGADO O SI NO TIENE EL DINERO SUFICIENTE DE PAGAR TAL SERVICIO. VAYA EN PERSONA O LLAME POR TELEFONO A LA OFICINA CUYA DIRECCION SE ENCUENTRA ESCRITA ABAJO PARA AVERIGUAR DONDE SE PUEDE CONSEGUIR ASISTENCIA LEGAL.

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Plaintiffs Timothy McGraw, Emily Cohen, and Danielle Byrd (“Plaintiffs”), individually and on behalf of all others similarly situated, bring this action against Defendants Altuglas LLC and Trinseo LLC a/k/a Trinseo PLC (collectively, “Defendants”) and allege as follows based on personal knowledge as to their own acts and on investigation conducted by counsel as to all other allegations:

PARTIES

I. Plaintiffs

1. Plaintiff Timothy McGraw is a citizen and resident of Philadelphia, Pennsylvania. Plaintiff McGraw purchased water from Target on March 26, 2023, in direct response to and as a result of the March 24, 2023, Altuglas chemical spill.

2. Plaintiff Emily Cohen is a citizen and resident of Philadelphia, Pennsylvania. Plaintiff Cohen purchased ice from a Sunoco Gas Station convenience store and water from Wawa on March 26, 2023, in direct response to and as a result of the March 24, 2023, Altuglas chemical spill.

3. Plaintiff Danielle Byrd is a citizen and resident of Philadelphia, Pennsylvania. Plaintiff Byrd purchased water from Dollar Tree and Rite Aid on March 26, 2023, in direct response to and as a result of the March 24, 2023, Altuglas chemical spill.

II. Defendants

4. Defendant Altuglas LLC is a Delaware limited liability corporation with its principal place of business in Bristol, Pennsylvania. Altuglas operates an acrylic resins manufacturing plant at 100 PA-413, Bristol, PA 19007. Altuglas is a wholly owned subsidiary of Defendant Trinseo LLC a/k/a Trinseo PLC. Altuglas manufactures acrylic resins for Trinseo’s Engineered Materials business.

5. Defendant Trinseo LLC a/k/a Trinseo PLC is a Delaware limited liability corporation with its principal place of business in Wayne, Pennsylvania.

JURISDICTION AND VENUE

6. This Court has subject-matter jurisdiction pursuant to 42 P.S. § 931.

7. Venue is proper in this county pursuant to 246 Pa. Code § 302(c) because a substantial part of the events or omissions giving rise to Plaintiffs' claims occurred in this county.

FACTUAL ALLEGATIONS

8. On March 24, 2023, between 8,100 and 12,000 gallons of latex emulsion solution was released from the Altuglas chemical plant in Bristol, Pennsylvania into Otter Creek, a tributary of the Delaware River. The Defendants have admitted that this toxic release resulted from an "equipment failure" at their facility. The latex solution spilled by Defendants contained butyl acetate, ethyl acetate, and methyl methacrylate.

9. The facility from which the latex emulsion solution leaked has had at least four previous leaks dating back to 2010, with the most recent being a methyl methacrylate leak in early 2020.

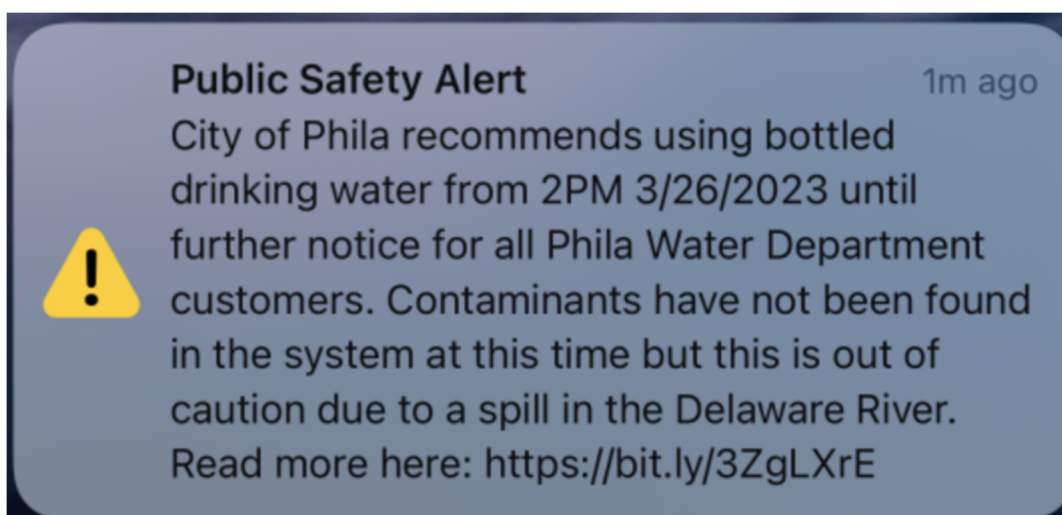
10. Butyl acetate can cause headaches, dizziness, nausea, and irritation of skin, respiratory passages, and eyes.

11. Ethyl acetate can cause headaches, irritation of respiratory passages and eyes, dizziness, nausea, weakness, and loss of consciousness.

12. Methyl methacrylate can cause irritation of skin, eyes, nose, and throat, nausea, and vomiting.

13. The massive chemical spill occurred approximately eight (8) miles upstream from the Baxter Drinking Water Treatment Plant that supplies drinking water to residents of the City of Philadelphia from the Delaware River.

14. On March 26, 2023, as a direct response to Defendants' chemical spill, a mobile public safety alert was sent to phones throughout Philadelphia advising residents to use bottled water until further notice instead of potentially contaminated tap water sourced from the Delaware River. The public safety alert was as follows:



15. News articles about the chemical spill were promptly published and disseminated widely, also communicating to Philadelphia residents the need to use bottled water instead of tap water as a precaution because of the spill.

16. The chemical spill and potential contamination of drinking water prompted residents and businesses throughout Philadelphia to immediately purchase bottled water and incur other economic damages that they would not have otherwise incurred except for the spill.

17. Plaintiffs and Class members had no knowledge of how long the environmental effects would last and thus needed to stock up on bottled water to last for an unknown amount of time, whether it is hours, days, weeks, or longer.

18. Consequently, there was a run to purchase water products in the Philadelphia and surrounding areas as a result of the chemical spill. Plaintiffs and Class Members went to any store they could find that still had water and purchased as much as they could.

19. Many stores were entirely sold out of bottled water within hours of the news of the chemical spill from Defendants' facility.

20. Some stores even implemented and announced limits on the amount of water that customers could purchase at one time.

21. Over the following hours and days, new reports indicated that tap water that had already been processed by Baxter Drinking Water Treatment Plant before the spill was safe to drink for a limited amount of time.

22. The first report stated that tap water was safe until 11:59 p.m. Monday March 27, 2023. A subsequent report stated that tap water was safe until 3:30 p.m. Tuesday March 28, 2023. A third report later stated that tap water was safe until 11:59 p.m. Wednesday March 29, 2023.

23. These messages were sent to Philadelphia residents as a direct response to Defendants' chemical spill.

24. Residents continue to live in fear that their tap water is not or will no longer be safe, thus requiring residents to go to the store and purchase bottled water or take other actions in response to the chemical spill, that they would not have taken absent the chemical spill.

25. It is well known that the plastic used for bottled water can be harmful to the environment, and many consumers do not purchase bottled water for this reason but were forced to purchase bottled water in this instance regardless because of Defendants' chemical spill.

26. Furthermore, Philadelphia residents and businesses incurred additional economic damages besides the cost of bottled water as a result of Defendants' chemical spill, including, for

example, the cost of gas for their vehicles to travel to stores to purchase bottled water, as well as the value of their time spent doing so.

27. Philadelphia businesses also suffered lost business opportunities, lost revenues, and lost profits as a direct result of Defendants' chemical spill.

CLASS ALLEGATIONS

28. Pennsylvania has a strong public policy favoring class actions.

29. Plaintiffs, individually and on behalf of all others similarly situated, bring this class action pursuant to Pa. R. Civ. P. 1702 on behalf of the following proposed Class:

All persons and entities that reside in the area served by the Baxter Drinking Water Treatment Plant (the "Class").

30. Plaintiffs reserve the right to modify, change, or expand the definition of the Class based upon discovery and further investigation.

31. *Numerosity*: The proposed Class is so numerous that joinder of all members is impracticable. The Baxter Drinking Water Treatment Plant serves approximately 58% of Philadelphia, or roughly 914,000 residents.

32. *Commonality*: There are questions of law or fact common to the Class. Questions of law or fact common to the Class include, without limitation:

- a. Whether Defendants owe a duty of care to Plaintiffs and Class members;
- b. Whether Defendants breached a duty of care to Plaintiffs and Class members;
- c. Whether Defendants caused the chemical spill;
- d. Whether Defendants caused contamination of the Delaware River, public water supply, and public and private waterways and lands;
- e. Whether Defendants caused a public nuisance;
- f. Whether Defendants caused a private nuisance;

- g. Whether Defendants engaged in abnormally dangerous activity;
- h. Whether Defendants were negligent;
- i. Whether Defendants were grossly negligent and/or acted recklessly and with deliberate indifference;
- j. Whether Plaintiffs and Class members suffered economic injuries as a result of Defendants' conduct; and
- k. Whether Plaintiffs and Class members are entitled to damages, and if so, the measure of those damages.

33. *Typicality*: Plaintiffs' claims are typical of the claims of the Class members. Plaintiffs and the Class were injured and suffered damages in substantially the same manner, have the same claims against Defendants relating to the same course of conduct, and are entitled to relief under the same legal theories.

34. *Adequacy*: Plaintiffs will fairly and adequately assert and protect the interests of the Class under the criteria set forth in Rule 1709, and have no interests antagonistic to those of the Class. Plaintiffs have retained counsel experienced in the prosecution of complex class actions, including actions with issues, claims, and defenses similar to the present case.

35. *Fair and Efficient Method of Adjudication*: In this action, a class action provides a fair and efficient method for adjudication of the controversy under the criteria set forth in Rule 1708. Questions of law or fact common to the Class members predominate over any questions affecting individual members. A class action is superior to other available methods for the fair and efficient adjudication of this case because individual joinder of all members of the proposed Class is impracticable and the amount at issue for each proposed Class member would not justify the cost of litigating individual claims. Should individual proposed Class members be required to bring separate actions, this Court would be confronted with a multiplicity of lawsuits burdening the court system while also creating the risk of inconsistent rulings and contradictory judgments. In contrast

to proceeding on a case-by-case basis, in which inconsistent results will magnify the delay and expense to all parties and the court system, this class action presents far fewer management difficulties while providing unitary adjudication, economies of scale and comprehensive supervision by a single court. Plaintiffs are unaware of any difficulties that are likely to be encountered in the management of this action that would preclude its maintenance as a class action. Accordingly, this class action may be maintained pursuant to Pa. R. Civ. P. 1708(a).

36. Defendants have also acted, and refused to act, on grounds generally applicable to the Class, thereby making appropriate final equitable relief with respect to the proposed Class as a whole. Accordingly, this class action may be maintained pursuant to Pa. R. Civ. P. 1708(b).

CAUSES OF ACTION

COUNT I NEGLIGENCE

(on behalf of Plaintiffs and the Class)

37. Plaintiffs hereby incorporate by reference all preceding paragraphs as though fully set forth herein.

38. Defendants are large, sophisticated manufacturing companies that regularly deal with dangerous chemicals that are capable of causing environmental damage and physical personal injury. Defendants therefore owe a duty of care to Plaintiffs and Class members to avoid reasonably foreseeable harm caused by their handling of dangerous chemicals.

39. Defendants breached their duty of care to Plaintiffs and Class members when they negligently and recklessly caused dangerous chemicals to spill into and contaminate the Delaware River, the primary source of drinking water for 58% of the residents of Philadelphia.

40. Defendants' breach caused Plaintiffs and Class members to reasonably fear for their safety, avoid drinking or using water potentially contaminated by Defendants, and to reasonably take actions such as purchasing bottled water to use instead of tap water.

41. Plaintiffs and Class members expended time and money purchasing bottled water in direct response to Defendants' actions as alleged herein and have suffered economic damages.

42. Plaintiffs and Class members incurred other economic damages such as the cost of gas to travel to stores to purchase bottled water, in direct response to Defendants' actions as alleged herein.

43. Additionally, Class members who are businesses have lost business opportunities, revenues, and profits as a result of Defendants' actions as alleged herein.

44. As a direct and proximate result of Defendant's conduct, Plaintiffs and Class members have suffered economic injuries.

45. Defendants' handling of dangerous chemicals and reckless spilling of dangerous chemicals into the Delaware River, causing economic injuries to Plaintiffs and Class members, constitutes abnormally dangerous activity, wanton disregard for environmental and human safety, and gross negligence.

46. Plaintiffs and Class members are further entitled to punitive damages due to Defendants' engaging in abnormally dangerous activity, wanton disregard for environmental and human safety, and gross negligence.

COUNT II
PRIVATE NUISANCE
(on behalf of the Class)

47. Plaintiffs hereby incorporate by reference all preceding paragraphs as though fully set forth herein.

48. Defendants negligently and recklessly caused dangerous chemicals to spill into and contaminate the Delaware River, the primary source of drinking water for 58% of the residents of Philadelphia.

49. Defendants' dangerous chemicals contaminated the Delaware River, surrounding land and waterways, and the public water supply, making the water unsafe to use.

50. Defendants' conduct in contaminating the public water supply interfered with Plaintiffs and Class members' use or enjoyment of their property.

51. Defendants' conduct in contaminating the public water supply caused harm to Plaintiffs and Class members' property, which now is unsafe to utilize without appropriate cleaning and remediation.

52. Defendants' conduct in contaminating the public water supply caused harm to Plaintiffs and Class members themselves, who have now been potentially exposed to the dangerous chemicals.

53. Defendants' conduct in contaminating the public water supply caused Plaintiffs and Class members to reasonably fear for their safety, avoid drinking or using water contaminated by Defendants, and purchase bottled water that was safe to use.

54. Plaintiffs and Class members expended time and money purchasing bottled water in direct response to Defendants' causing a private nuisance and have suffered economic damages.

55. As a direct and proximate result of Defendant's conduct, Plaintiffs and Class members have been injured and sustained damages.

56. Defendants' handling of dangerous chemicals and reckless spilling of dangerous chemicals into the Delaware River, causing injury to Plaintiffs and Class members, constitutes abnormally dangerous activity, wanton disregard for environmental and human safety, and gross negligence.

57. Plaintiffs and Class members are further entitled to punitive damages due to Defendants' engaging in abnormally dangerous activity, wanton disregard for environmental and human safety, and gross negligence.

COUNT III
PUBLIC NUISANCE
(on behalf of the Class)

58. Plaintiffs hereby incorporate by reference all preceding paragraphs as though fully set forth herein.

59. Defendants negligently and recklessly caused dangerous chemicals to spill into and contaminate the Delaware River, the primary source of drinking water for 58% of the residents of Philadelphia.

60. Defendants' dangerous chemicals contaminated the Delaware River, surrounding land and waterways, and the public water supply, making the water unsafe to use.

61. Defendants' conduct in contaminating the public water supply interfered with the public's right to use and enjoy the contaminated public water supply, waterways, and land.

62. Defendants' conduct in contaminating the public water supply caused harm to Plaintiffs and Class members, who are now unable to access the public water supply without appropriate cleaning and remediation.

63. Defendants' conduct in contaminating the public water supply caused harm to Plaintiffs and Class members themselves, who have now been potentially exposed to the dangerous chemicals.

64. Defendants' conduct in contaminating the public water supply caused Plaintiffs and Class members to reasonably fear for their safety, avoid drinking or using water contaminated by Defendants, and purchase bottled water that was safe to use.

65. Plaintiffs and Class members expended time and money purchasing bottled water in direct response to Defendants' causing a public nuisance and have suffered economic damages.

66. As a direct and proximate result of Defendant's conduct, Plaintiffs and Class members have been injured and sustained damages.

67. Defendants' handling of dangerous chemicals and reckless spilling of dangerous chemicals into the Delaware River, causing injury to Plaintiffs and Class members, constitutes abnormally dangerous activity, wanton disregard for environmental and human safety, and gross negligence.

68. Plaintiffs and Class members are further entitled to punitive damages due to Defendants' engaging in abnormally dangerous activity, wanton disregard for environmental and human safety, and gross negligence.

PRAYER FOR RELIEF

WHEREFORE, Plaintiffs, individually and on behalf of the Class, pray for a judgment as follows:

- a. An order certifying this action as a class action;
- b. An order appointing Plaintiffs as Class Representatives, and appointing the undersigned counsel as Class Counsel to represent the Class;
- c. A declaration that Defendants are liable under each of the above-enumerated causes of action;
- d. An order awarding compensatory damages, restitution, or refund of all damages sustained by Plaintiffs and Class members as a result of Defendants' unlawful conduct as described above, including actual, statutory, and punitive damages to the extent permitted by law in an amount to be proven at trial;
- e. An order awarding appropriate preliminary and final injunctive relief against the conduct of Defendants as described above;

- f. An award of attorneys' fees, expert witness fees, and costs, as provided by applicable law or as would be reasonable from any recovery of monies recovered for or benefits bestowed on the Class Members;
- g. Interest as provided by law, including but not limited to pre-judgment and post-judgment interest as provided by rule or statute; and
- h. Such other and further relief as this Court may deem just, equitable, or proper.

JURY DEMAND

Plaintiffs demand trial by jury.

Dated: March 29, 2023

Respectfully submitted,

/s/ Shanon J. Carson

Shanon J. Carson

Y. Michael Twersky

Dena Young

BERGER MONTAGUE PC

1818 Market Street, Suite 3600

Philadelphia, PA 19103

Tel: (215) 875-3000

scarson@bm.net

mitwersky@bm.net

dyoung@bm.net

Daniel C. Levin

Charles E. Schaffer

Nicholas J. Elia

LEVIN SEDRAN & BERMAN LLP

510 Walnut Street, Suite 500

Philadelphia, PA 19106

Tel: (215) 592-1500

dlevin@lfsblaw.com

cschaffer@lfsblaw.com

nelia@lfsblaw.com

Joseph C. Kohn
William E. Hoese
Zahra R. Dean
KOHN, SWIFT & GRAF, P.C.
1600 Market Street, Suite 2500
Philadelphia, PA 19103
Tel: (215) 238-1700
jkohn@kohswift.com
whose@kohswift.com
zdean@kohswift.com

*Counsel for Plaintiffs and the Proposed
Class*

VERIFICATION

The undersigned, TIMOTHY MCGRAW, herein avers that the statements of fact contained in the foregoing CLASS ACTION COMPLAINT are true and correct to the best of his information, knowledge, and belief, and are made subject to penalties of 19 Pa. C.S.A. Sec. 4904 relating to unsworn falsification to authorities.


Date: 3/29/2023

DocuSigned by:
Timothy McGraw
DC59F09C5954447...
Timothy McGraw

VERIFICATION

The undersigned, EMILY COHEN, herein avers that the statements of fact contained in the foregoing CLASS ACTION COMPLAINT are true and correct to the best of her information, knowledge, and belief, and are made subject to penalties of 19 Pa. C.S.A. Sec. 4904 relating to unsworn falsification to authorities.

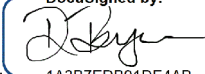
Date: 3/29/2023

DocuSigned by:

E2BEEEEE133B47C...
Emily Cohen

VERIFICATION

The undersigned, DANIELLE BYRD, herein avers that the statements of fact contained in the foregoing CLASS ACTION COMPLAINT are true and correct to the best of her information, knowledge, and belief, and are made subject to penalties of 19 Pa. C.S.A. Sec. 4904 relating to unsworn falsification to authorities.

Date: 3/29/2023

DocuSigned by:

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Danielle Byrd